

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

GILBERT PARKER,	:	Case No. 1:21-cv-721
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Stephanie K.
	:	Bowman
DEPARTMENT OF JUSTICE,	:	
	:	
Defendant.	:	

**DECISION AND ENTRY
DECLARING AS MOOT THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 4)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. 28 U.S.C. § 636(b). Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on December 28, 2021, submitted a Report and Recommendation. (Doc. 4).

In the Report, the Magistrate Judge recommended dismissing the complaint with prejudice for failure to state a claim as time barred under 42 U.S.C. § 1983 and for improper venue. (*Id.*) Plaintiff timely submitted objections, which objections seemingly attempted to clarify his claims.¹ (Doc. 6). Thus, after reviewing the objections and construing the objections liberally, the Court sua sponte granted Plaintiff leave to file an amended complaint in compliance with Federal Rule of Civil Procedure 8(a). *See* Fed. R. Civ. P. 15(a)(3) (a party may amend its pleading with the court's leave).

¹ For example, Plaintiff suggested he was attempting to bring suit under the Federal Tort Claims Act. (Doc. 6 at 3).

Plaintiff then submitted an amended complaint.² (Doc. 9). Accordingly, because the December 28, 2021 Report and Recommendation concerns Plaintiff's original complaint and the amended complaint supersedes the original complaint, the Court declares as **MOOT** the December 28, 2021 Report and Recommendation (Doc. 4) and overrules as **MOOT** Plaintiff's objections (Doc. 6).

IT IS SO ORDERED.

Date: 3/3/2023

s/Timothy S. Black
Timothy S. Black
United States District Judge

² The Court, at this time, takes no opinion as to whether the amended complaint survives initial screening pursuant to 28 U.S.C. § 1915(e)(2)(B), and the amended complaint remains referred to the Magistrate Judge for initial consideration.